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CLIENT/MATTER NUMBER
135421-0104

August 5, 2024

VIA ECF

The Honorable Katherine Polk Failla
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

MEMO ENDORSED

Re: *Sadiant, Inc. and Sadiant Health, LLC v. Penstock Consulting, LLC*, Case
No. 1:23-cv-07872-KPF

**Letter Motion for Requesting Issuance of a Letter of Request to Take the Deposition of
Mexican Nationals, Ben Ayala and Uriel (Ulises) Cota Huerta**

Dear Judge Failla:

Our firm represents Plaintiffs Sadiant, Inc. and Sadiant Health, LLC (“Sadiant”) in the above-referenced action. We write on behalf of Sadiant to request the issuance of letters of request pursuant to Rule 28(b) of the Federal Rules of Civil Procedure and the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters so as to permit the taking of the depositions of Ben Ayala and Uriel (Ulises) Cota Huerta, both of whom are Mexican nationals.

Messrs. Ayala and Huerta are former employees of Defendant Penstock or independent contractors. They were part of the select few employees or contractors working for Penstock on the project to develop Sadiant’s proprietary software during the time period relevant to Sadiant’s lawsuit. Upon information and belief, Messrs. Ayala and Huerta have personal knowledge of the following actions by Penstock:

- Performing work to develop Sadiant’s proprietary software;
- Accessing Sadiant email accounts without authorization;
- Making or retaining copies of Sadiant’s proprietary software;
- Accessing, deleting, or modifying working notes and code documentation related to Sadiant’s proprietary software;
- Modifying, controlling, or removing Sadiant’s access to its cloud computing platform;
- Invoicing for work performed on behalf of Sadiant;
- Modifying the archiving protocol for versions of Sadiant’s proprietary software; and
- Altering or disabling of Sadiant’s cybersecurity agents.

In Penstock’s initial disclosures, Penstock identifies Messrs. Ayala and Cota Huerta as individuals with personal knowledge. Mr. Ayala is not currently represented by any counsel to this

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Page 2

matter. We have inquired directly to Penstock's counsel as to whether Mr. Cota Huerta is represented by them but have yet to receive confirmation. Whether or not Penstock's counsel also represents Mr. Cota Huerta, he is known by all parties to have information that is centrally important to this lawsuit.

Accordingly, Sadiant respectfully requests the Court issue the **attached Letters of Request** to permit Sadiant to take the depositions in Mexico of Ben Ayala and Uriel (Ulises) Cota Huerta.

The undersigned will coordinate with Penstock's counsel to determine whether an agreement can be reached to have Messrs. Ayala and Cota Huerta appear voluntarily for their depositions and the format for said depositions. If no agreement can be reached, Sadiant respectfully requests that the Court provide the parties an opportunity to confer on written questions to be provided to the Mexican judicial authority accompanying the letters of request.

Thank you for your consideration in this matter.

Respectfully submitted,

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Attorneys for Plaintiffs
Sadiant, Inc. and Sadiant Health, LLC

cc:

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Larry J. Friedman, Esq.
Jason H. Friedman, Esq.

Enclosure:
Proposed Letters of Request

Application GRANTED. The Court will issue Plaintiffs' proposed Letters of Request under separate cover.

The Clerk of Court is directed to terminate the pending motion at docket entry 44.

Dated: August 9, 2024
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla". The signature is written in a cursive, flowing style.

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE